



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

Michael O. Leavitt
Governor

Lowell P. Braxton,
Division Director

July 20, 1998

CERTIFIED RETURN RECEIPT
P 074 976 653

Lon Thomas
American Stone
4040 South 300 West
Salt Lake City, Utah 84107

Re: Notice of Agency Action and Division Directive, American Stone and Building Incorporated, Peoa Blonde Quarry, S/043/012, and Heber Quarry, S/051/001, Summit and Wasatch Counties, Utah

Dear Mr. Thomas:

This letter is sent to notify you, that your Peoa Blonde Quarry and Heber Quarry, or portions thereof, are not in compliance with certain sections of the Utah Mined Land Reclamation Act 40-8-1 et seq and the Minerals Reclamation Program Rules R647-1 through R647-5.

Accordingly, the Division hereby issues this Notice of Agency Action pursuant to the provisions of the Minerals Program Rules R647-5-104 et seq. and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

American Stone is hereby directed to immediately suspend all mining-related activities on the Peoa Blonde and Heber Quarries until this Notice of Agency Action is resolved.

Mine Site Location

Peoa Blonde Quarry:

The quarry is located in the Southeast Quarter of Section 20, Township 1 South, Range 5 East, SLBM, Summit County, Utah.

On May 29, 1998, an inspection was conducted at the Peoa Blonde Quarry by Lynn Kunzler and Tom Munson of the Minerals Program staff. As part of the site inspection, a GPS survey was performed of the disturbed area. The results of the survey showed that the surface disturbance has exceeded 5 acres, the threshold for a Small Mining Operation (inspection memo enclosed).

Page 2
Lon Thomas
S/043/012 & S/051/001
July 20, 1998

Heber Quarry:

The quarry is located in Section 6, Township 4 South, Range 6 East, SLBM, Wasatch County, Utah.

In response to a public complaint received by the Division, an inspection was conducted at the Heber quarry on May 29, 1998, by Lynn Kunzler and Tom Munson of the Minerals Program staff. As part of the site inspection, a GPS survey was performed of the disturbed area. The results of the survey showed that the surface disturbance has exceeded 5 acres, the threshold for a Small Mining Operation. It was also noted that trash and associated mining-related debris has been improperly disposed of, and that significant fuel/oil spillage has occurred in a non-contained fuel storage area (inspection memo enclosed).

Applicable Minerals Rules which are in violation:

R647-3-113. Mine Enlargement: Before enlarging a small mining operation beyond five (5) acres of surface disturbance, the operator must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and receive Division approval. (*Peoa Blonde and Heber Quarries*)

R647-4-101. Filing Requirements and Review Procedures: A Notice of Intention to Commence Large Mining Operation (FORM MR-LMO) must be approved by the Division before mining operations begin. (*Peoa Blonde and Heber Quarries*)

R647-4-107(6). Operation Practices - Concurrent Reclamation: During operation, disturbed areas shall be reclaimed when no longer needed, except to the extent necessary to preserve evidence of mineralization for proof of discovery. Areas which have been disturbed but are not routinely or currently utilized shall be kept in a safe, environmentally stable condition. (*Peoa Blonde and Heber Quarries*)

R647-3-107.1.12 & R647-4-107.1.12. Operation Practices - Disposal of Trash: Trash and extraneous debris must be disposed of in a manner to minimize hazards to the public safety and welfare. (*Heber Quarry*)

R647-3-107.4 & R647-4-107.4. Operation Practices - Deleterious Materials: Deleterious or potentially deleterious materials (including fuel and oils) must be kept in an isolated condition such that adverse environmental effects are eliminated or controlled. Any spills are to be cleaned up immediately and disposed of in an approved manner. (*Heber Quarry*)

Because you have violated the 5-acre small mining operations threshold criteria without first filing and receiving Division approval of a large mining permit application, your actions may also constitute a violation of section 40-8-9 of the Utah Mined Land Reclamation Act (a willful and knowing violation). A finding of willful and knowing violation is a misdemeanor, and may subject the operator to fines up to \$10,000 for each violation.

Mitigation Requirements

1. An interim reclamation surety in the amount of \$36,000 (thirty-six thousand dollars) must be posted with the Division within two (2) weeks of your receipt of this Notice to cover existing disturbances associated with the Peoa Blonde Quarry. An interim reclamation surety in the amount of \$30,000 (thirty thousand dollars) must be posted with the Division within two (2) weeks of your receipt of this Notice to cover existing disturbances associated with the Heber Quarry.

The interim surety dollar amounts are based on roughly 12 and 10 acres (respectively) of measured surface disturbance times \$3,000 per acre (average Minerals Program \$/acre reclamation cost). The interim surety amounts will be adjusted accordingly (up or down) to reflect actual third party reclamation costs, once the large mining permit applications have been approved for these sites. *All mining activities must be suspended at both quarries until the interim sureties are in place.*

2. Because the amount of disturbance has exceeded five acres, both mine sites are now considered to be Large Mining Operation. A complete Notice of Intention to Conduct Large Mining Operations must be filed with the Division for each operation within 90 days of your receipt of this Notice.
3. American Stone must *immediately* clean up the fuel (and/or oil) spills, the trash and associated mining-related debris which has been dumped over the fill slopes at the Heber Quarry. This material must be disposed of in an approved waste disposal facility. This cleanup must be completed within two weeks of your receipt of this Notice.

Rights of Appeal

R647-5-104(2.11.116) - American Stone has a right to appeal this Notice of Agency Action by requesting an *informal* administrative hearing before the Division Director. A *written* appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter. If no hearing is requested, then the Division's decision will become final. (A copy of the R647-5, Administrative and Procedural Rules, is enclosed for your reference should you decide to file an appeal.)

Please note that if American Stone fails to file a request for hearing, this may preclude the operator from any further participation, appeal or judicial review in regard to this adjudicative proceeding.

Instructions for Filing an Appeal of the Division Decision

The written appeal must be mailed to the attention of the Division Director and include (at a minimum) the following information: 1) your intent to appeal; and 2) the specific violations you wish to appeal.

Page 4
Lon Thomas
S/043/012 & S/051/001
July 20, 1998

The appeal must be filed with this office within 10 days from the date of your receipt of this certified letter.

Informal Hearing Conducted before Division Director

R647-5-104(2.11.115) - The adjudicative proceeding will be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

R647-5-104.2.11.113 - The name of the adjudicative proceeding is in the matter of the order by the Division of Oil, Gas and Mining to American Stone and Building Company Inc. to suspend operations for non-compliance with Utah Mined Land Reclamation Act and applicable rules.

Authority and Jurisdiction

R647-5-104(2.11.117) - Pursuant to section 40-8-5, Utah Code Annotated (1953, as amended), and in accordance with Utah Administrative Rules R647-3-113, R647-4-101, and R647-4-107(6).

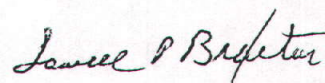
Purpose of Adjudicative Proceeding

R647-5-104(2.11.119) - The purpose of the adjudicative proceeding (i.e., informal hearing) is to determine if the operator is in violation of the above cited rules.

Enclosed is a Notice of Intention to Conduct Large Mining Operations form (MR-LMO). Please contact the Division within 7-10 days of your receipt of this Notice so that we can make arrangements to send you (or your banking institution) the appropriate interim reclamation surety forms.

Please contact me, Mary Ann Wright, Associate Director, or Wayne Hedberg of my staff, if you have questions concerning the requirements of this notice.

Sincerely,



Lowell P. Braxton
Acting Director

jb
Enclosures: (1) procedural/admin. rules; (2) MR-LMO
(3) two inspection memos
cc: Bons Obiadi, Summit County
Robert Mathis, Wasatch County Planner
Mary Ann Wright, DOGM
Dan Moquin, Assistant Attorney General
D. Wayne Hedberg, DOGM
Lynn Kunzler, DOGM
thomas.ncl

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Notice of Agency Action for American Stone's, Peoa Blonde Quarry, S/043/012 and Heber Quarry, S/051/001, to be mailed by first class mail, postage prepaid, the 20th day of July, 1998 to:

Lon Thomas
American Stone
4040 South 300 West
Salt Lake City, Utah 84107



Joelle Burns
Minerals Secretary